

BEFORE THE ILLINOIS COMMERCE COMMISSION

Docket No. 02-0365

Direct Testimony of Deborah Fuentes Niziolek

On Behalf of Ameritech Illinois

Ameritech Illinois Exhibit No. 2.0

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Witness _____

Date 7/17/02 Reporter BAR

DIRECT TESTIMONY OF DEBORAH FUENTES NIZIOLEK

I. INTRODUCTION

**Q. WOULD YOU PLEASE STATE YOUR NAME, TITLE, AND
BUSINESS ADDRESS?**

A My name is Deborah Fuentes Niziolek. I am currently an Associate
Director for Wholesale Marketing representing the Unbundled Network
Elements (UNEs) products and associated policy. My business address is
350 N. Orleans, Chicago, IL 60654.

**Q HAVE YOU PREVIOUSLY PROVIDED WRITTEN OR ORAL
TESTIMONY BEFORE ANY PUBLIC UTILITIES COMMISSION
WITHIN THE SBC-12 STATE REGION?**

A I have participated in the following CLEC arbitrations: MCI^{Im} Ohio
(Docket No. 01-1319-TP-ARB); Allegiance Ohio, (Docket No.01-724-TP-
ARB); McLeod Illinois, Michigan and Wisconsin (Docket Nos. 01-0623,
U-13124 and 05-MA-128); TDS Illinois and Wisconsin (Docket Nos. 01-
0338 and 05-MA-123); AT&T Indiana, Michigan, and Wisconsin (Docket
Nos. 40571-INT-03, U-12465, and 05-MA-120); Sage Oklahoma (Docket
No. 200100294); GNAPs California, Illinois and Ohio (Docket Nos. 01-
11-045, 01-3096-TP-ARB, and 01-0786); Pac West California (Docket
No. A-02-03-059); AccuTel Michigan (Docket No. U-13353); and
CoreComm Ohio (Docket No 02-579-TP-CSS).

25 I have also participated in the following cost/tariff dockets: Ohio
26 Collocation Tariff (Docket No. 96-922-TP-UNC); and Missouri UNE Cost
27 Hearing (Docket No. T0-2001-438).

28

29 **Q WHAT IS YOUR EDUCATIONAL BACKGROUND?**

30 A I received my Master of Science in Integrated Marketing Communications
31 from Roosevelt University, Chicago, Illinois; and my Bachelor of Arts in
32 Political Science from Loyola University, Chicago, Illinois.

33

34 **Q. DESCRIBE YOUR TELEPHONE COMPANY EXPERIENCE.**

35 A I began with Ameritech in 1989 in the purchasing organization as a buyer
36 for Furnish Only and Engineering equipment as well as for Controlled
37 Environmental Vaults, Huts and Remote Terminals. In May of 1993, I
38 became the Ohio Marketing Operations Manager, where my
39 responsibilities included product development, implementation and
40 marketing strategies for Caller ID within Ohio. In November of that year,
41 I became the Regional Product Manager in the Consumer Business Unit
42 for Caller ID and Caller ID with Name. My responsibilities included
43 development, implementation and marketing strategy for the five
44 Ameritech states. In May of 1995, I became a Regional Project Manager
45 working within the Strategic Supplier Implementation organization. In
46 that position, I acted as the single point of contact for one of six Ameritech
47 Key Suppliers. In November 1995, I took over responsibilities as Product

48 Manager of Unbundled Local Switching. My
49 responsibilities included the development and regional implementation of
50 Local Switching. In May of 1999, I became Regional Product Manager
51 for Unbundled Loops. From December of 1999 through June of 2000, I
52 was the 13-state Product Manager for Sub-Loop Unbundling. I was
53 responsible for the development and implementation of Sub-Loop
54 Unbundling. I moved into my current role, Associate Director of Local
55 Wholesale Marketing, in June of 2000.

56

57 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

58 A. The purpose of my testimony is to respond to portions of the direct
59 testimony of Globalcom witnesses, Eric Wince and Michael Starkey. I will
60 demonstrate that Ameritech Illinois has fully complied with its obligations
61 to make UNEs and UNE combinations available to Globalcom in
62 accordance with federal and state law and the terms of the Company's
63 interconnection agreements with Globalcom. In particular, I will show that
64 Ameritech Illinois has fully complied with its obligations under the FCC's
65 UNE Remand Order to make available to CLECs, including Globalcom,
66 the ability to convert Special Access circuits to loop/dedicated transport
67 combinations. I will respond to Globalcom's assertions that it should be
68 released from of its obligations to pay termination charges if and when it
69 converts Special Access circuits purchased under Optional Payment Plan

70 ("OPP") term pricing agreements prior to the expiration of those
71 agreements.
72

73 **II. RESPONSE TO MR. WINCE**

74
75 **Q MR. WINCE ASSERTS THAT AMERITECH ILLINOIS "DID NOT**
76 **OFFER TO PROVIDE EEL COMBINATIONS TO GLOBALCOM**
77 **AFTER NOVEMBER OF 1999". (WINCE DIRECT, PAGE 10)**
78 **PLEASE COMMENT ON MR. WINCE'S ASSERTION IN THIS**
79 **REGARD.**

80 **A.** By the term EELs, I assume that Mr. Wince is referring to combinations of
81 UNE loops and dedicated transport. The UNE Remand Order, issued on
82 November 24, 1999 (effective, February 17, 2000) as clarified in the
83 Supplemental Order, issued on November 24, 1999, required ILECs, such
84 as Ameritech Illinois, to allow "requesting carriers to self-certify that they
85 are providing a significant amount of local exchange service" (footnote on
86 page 3 of the FCC 99-370 Supplemental Order). Following the issuance of
87 those Orders, SBC immediately began to take steps to comply with the
88 requirements and be in a position to enable all of its ILEC subsidiaries,
89 including Ameritech, to be in a position to make Special Access to UNE
90 conversions available to CLECs when those requirements became
91 effective on February 17, 2000.
92

93 If Globalcom had requested a conversion of existing Special Access
94 circuits to a combination of unbundled loops and unbundled transport
95 (“UDT”), we would have done so. In its Supplemental Order
96 Clarification, released June 2, 2000, the FCC detailed three options for
97 the CLEC to choose from to certify that the CLEC was providing a
98 significant amount of local usage over a requested Special Access circuit
99 the CLEC is requesting to convert to a UNE loop/UDT combination. If the
100 CLEC could not certify that it could not satisfy one of those options,
101 Ameritech would not be obligated to make such a conversion. Presuming
102 Globalcom can meet one of the 3 criteria, Ameritech would then do the
103 requested conversion.

104

105Q. **PLEASE DESCRIBE THE EFFORTS MADE BY SBC AND**
106 **AMERITECH ILLINOIS TO COMPLY WITH THE FCC’S**
107 **REQUIREMENT TO ALLOW CONVERSIONS OF SPECIAL**
108 **ACCESS TO EELS.**

109A. SBC personnel were hard at work from the moment the UNE Remand
110 Order and the Supplemental Order were issued November 24, 1999. Soon
111 after, SBC began working on contract language to update the 13 State
112 Generic (finalized February 17, 2000), creating a contract amendment to
113 for easy insertion into our CLEC customers’ agreements for those who
114 chose to amend their agreement (April 25, 2001), updating the CLEC
115 Website to include these new obligations October 19, 2000, writing

116 accessible letters to update our customers regarding our obligation to
117 comply and providing direction on how to take advantage of these new
118 terms, educating our account managers and negotiators through training to
119 understand these obligations in case they received questions from our
120 CLEC customers, updating methods and procedures, updating ordering
121 systems where appropriate and working on implementation plans to
122 comply.

123
124 As a specific example, an Accessible Letter was sent on April 25, 2000
125 which announced "the completed revision of the SBC Communications
126 Inc.'s 13-State "Generic" Interconnection Agreement to reflect certain
127 holdings" in the UNE Remand and its Supplemental Order. The TCNet
128 website was updated on April 25, 2000 to reflect the Certification process
129 and the outcome of the UNE-Remand Order. We continued to improve our
130 process based upon feedback from our CLEC customers and, in October
131 and November of 2000, made modifications to our certification process
132 that could have been viewed on the Website by Globalcom to provide
133 even more guidance regarding their options and how to proceed if they
134 chose to convert service.

135
136 Another example is an Accessible Letter that was sent February 1, 2001
137 informing all CLECs of the updated ordering process and explaining
138 qualifications for conversions (which was very clear and detailed) for

139 Special Access to Unbundled Network Element Conversions. (Schedule
140 DFN-2). It directed CLECs to an outline of the new procedures on the
141 CLEC Website. This letter went to several Globalcom employees
142 including Gail Zink, Eric Wince, Roger Wurster, Greg Robertson, Chris
143 Forte, Annette Lotz and an accessible letter mailbox designated by
144 Globalcom. Even after notification of their options, Globalcom continued
145 ordering Special Access Circuits under 12, 36, and 60 month terms. Even
146 after Ameritech filed its Interim Compliance Tariff in September of 2001,
147 Globalcom decided not to proceed with converting Special Access service
148 to EELS. Instead in the month of September alone, Globalcom ordered
149 approximately 40 circuits under OPP with terms ranging from 12 to 60
150 months.

151

152Q. **HOW DID AMERITECH ILLINOIS SPECIFICALLY RESPOND TO**
153 **THE NEED FOR CONVERTING SPECIAL ACCESS TO UNES?**

154A. Ameritech developed and implemented a process for all CLECs to use in
155 order to reconfigure or convert Special Access to UNES. The original
156 process was identified in the CLEC handbook on-line and was titled,
157 "Reconfiguring Special Access Service Arrangements to Combinations of
158 Unbundled Network Elements (UNEs)".

159

160 We joined with CLECs and other ILECs in a letter to the FCC proposing
161 criteria for Special Access conversions on February, 28, 2000. In March

162 2000, we posted guidelines and instructions for CLECs to follow in
163 ordering SA to UNE conversion. (Schedule DFN-1).
164

165 In response to requests by certain CLECs, we also made efforts to improve
166 the ordering process and make it more streamlined. Specifically, we
167 changed the two-step ordering process to a one step process. The initial
168 introduction of the one-step conversion process took place at the FCC
169 Operational Workshop held in January 2001. It is my understanding that
170 both the FCC and the CLEC community applauded the change.
171

172 We incurred a great deal of time and expense to do this, effectively
173 turning each conversion into a special project, being hand held from
174 receipt of request to complete conversion.
175

176 Product management worked very closely with the CLEC Support Team
177 to create training manuals and course format to educate the CLECs on
178 ordering criteria and procedure for converting to UNEs. The training
179 courses are still being offered in very region and the courses may be found
180 in CLEC Online in the section identified as CLEC Education. In addition,
181 the CLEC Support Team ensures that CLECs are made aware of any new
182 courses available to them.
183

184 We completed that phase of development of the new process and rolled it
185 out throughout the SBC region in the months of February and March of
186 2001. Once again, we posted the new procedures on our web site and
187 issued an Accessible Letter to all carriers.

188

189Q. **PLEASE DESCRIBE THE CURRENT PROCESS FOR ORDERING**
190 **SA TO UNE CONVERSIONS.**

191A. Within this process, Ameritech Illinois identified the minimal amount of
192 work that a CLEC would need to do in order to be eligible for
193 reconfiguring a Special Access service to UNEs. The CLEC is not
194 required to do anything other than send, to the Account Manager, a
195 completed Certification Letter or Certification Spreadsheet identifying the
196 specific circuits (i.e., circuit ID numbers) to be converted. In addition, the
197 CLEC is required to identify which of the three (3) FCC criteria or “safe
198 harbors” under which CLEC wishes to certify the circuit for which
199 conversion is requested.

200

201Q. **PLEASE EXPLAIN THE THREE OPTIONS OR CRITERIA**
202 **REFERENCED ABOVE.**

203A. The FCC in the Supplemental Order Clarification identified requirements
204 for both the ILEC and the CLECs that were to determine when the CLEC
205 could legitimately convert Special Access circuits to UNEs.

206

207 These specific three options (of which the CLEC only needs to choose
208 one) are the criteria that the FCC established for CLECs when a CLEC
209 wanted to convert qualified Special Access circuits to UNEs, all of which
210 is predicated upon the amount of local usage a CLEC provides to its' end-
211 user customers.

212 (1) As we found in the *Supplemental Order*, the requesting
213 carrier certifies that it is the exclusive provider of an
214 end user's local exchange service.¹ The loop-transport
215 combinations must terminate at the requesting carrier's
216 collocation arrangement in at least one incumbent LEC
217 central office. This option does not allow loop-
218 transport combinations to be connected to the
219 incumbent LEC's tariffed services. Under this option,
220 the requesting carrier is the end user's only local
221 service provider, and thus, is providing more than a
222 significant amount of local exchange service. The
223 carrier can then use the loop-transport combinations
224 that serve the end user to carry any type of traffic,
225 including using them to carry 100 percent interstate
226 access traffic; or

227 (2) The requesting carrier certifies that it provides local
228 exchange and exchange access service to the end user
229 customer's premises and handles at least one third of
230 the end user customer's local traffic measured as a
231 percent of total end user customer local dialtone lines;
232 and for DS1 circuits and above,² at least 50 percent of
233 the activated channels on the loop portion of the loop-
234 transport combination have at least 5 percent local
235 voice traffic individually,³ and the entire loop facility

¹ *Supplemental Order* at n.9.

² A DS1 circuit contains 24 voice-grade channels.

³ Traffic is local if it is defined as such in a requesting carrier's state-approved local exchange tariff and/or it is subject to a reciprocal compensation arrangement between the requesting carrier and the incumbent LEC. This is consistent with the Commission's statement in the *Local Competition First Report and Order* that state commissions have the authority to determine what geographic areas should be considered "local areas" for purposes of applying reciprocal compensation arrangements, consistent with their historical practice of defining local service areas for local exchange carriers. *Local Competition First Report and Order*, 11 FCC Rcd at 16013, para. 1035.

has at least 10 percent local voice traffic. When a loop-transport combination includes multiplexing (*e.g.*, DS1 multiplexed to DS3 level),⁴ each of the individual DS1 circuits must meet this criteria. The loop-transport combination must terminate at the requesting carrier's collocation arrangement in at least one incumbent LEC central office. This option does not allow loop-transport combinations to be connected to the incumbent LEC's tariffed services. Under this option, a carrier's provision of at least one third of an end user's local traffic is significant because it indicates that the carrier is providing more than a de minimis amount, but less than all, of the end user's local service. As we stated above, we find this to be a reasonable indication that the requesting carrier has taken affirmative steps to provide local exchange service to the end user, and is not using the facilities solely to bypass Special Access service. Such a carrier may then use unbundled loop-transport combinations to serve the customer as long as the active channels on the facility, and the entire facility, are being used to provide the amount of local exchange service specified in this option, thereby offering the carrier some flexibility to use the combinations to provide other services besides local exchange service; or

- (3) The requesting carrier certifies that at least 50 percent of the activated channels on a circuit are used to provide originating and terminating local dialtone service and at least 50 percent of the traffic on each of these local dialtone channels is local voice traffic, and that the entire loop facility has at least 33 percent local voice traffic. When a loop-transport combination includes multiplexing (*e.g.*, DS1 multiplexed to DS3 level), each of the individual DS1 circuits must meet this criteria. This option does not allow loop-transport combinations to be connected to the incumbent LEC's tariffed services. Under this option, collocation is not required. The requesting carrier does not need to provide a defined portion of the end user's local service, but the active channels on any loop-transport combination, and the entire facility, must carry the

⁴ A DS3 circuit contains 24 DS1s. A DS1 circuit that is multiplexed to the DS3 level passes through electronic equipment that allows the signals carried on the DS1 to be consolidated on to the DS3.

277 amount of local exchange traffic specified in this
278 option. This option may be the most efficient for
279 requesting carriers that provide high capacity facilities
280 to large end users that carry a significant amount of
281 local voice traffic, but that represent only a small
282 portion of the end user's total local exchange service.
283 This option recognizes that although the requesting
284 carrier is not providing one-third of the end user's local
285 voice service, as set forth in option 2, the carrier has
286 still taken affirmative steps to provide local service to
287 the customer, and is not using the circuits simply to
288 bypass Special Access. As the record indicates, while
289 such a carrier may not be providing a significant
290 amount of the customer's total local service, the 50
291 percent facility threshold indicates that a significant
292 portion of the service that the carrier does provide to the
293 end user is local

294

295Q. **ARE THESE CONVERSIONS AUTOMATIC, OR MUST THE**
296 **CLEC INITIATE THE CONVERSION?**

297A. No. It is the responsibility of the CLEC customer to determine whether or
298 not it wants to convert an existing Special Access service to UNEs.

299 In fact, the issue of automatic conversion was specifically addressed by
300 the FCC in the Net2000 Communications vs. Verizon Complaint (File No.
301 EB-00-018/ FCC 01-381). The FCC stated,

302 "The UNE Remand Order did not automatically convert
303 all eligible Special Access circuits to EELs on the effective
304 date of that order.....Accordingly, ILECs were under no
305 obligation to provide conversions unless and until such
306 conversions were requested." (§ 32)

307

308 The CLEC needs to certify that it is the provider of an end user's local
309 exchange service, and then identify which of the three safe harbors it will
310 use to certify. In this regard, the FCC has made it clear that "each
311 individual circuit must meet [the substantial local exchange service use]
312 criteria" (Net2000 / Verizon Complaint, ¶ 28).

313
314 A tremendous amount of time and resources go into converting a Special
315 Access circuit. Handled like a special project, each request would go
316 through the Account Manager. The Account Manager, in turn, would meet
317 internally with various groups to verify circuits, negotiate time frames for
318 completion, due dates and billing dates. The Account Manager then goes
319 back to the CLEC and provides them with the information. All of this is
320 done as the result of the CLEC initiating the conversion request.

321

322Q. **DOES AMERITECH ILLINOIS HAVE A PROCESS FOR**
323 **DISTRIBUTING INFORMATION TO CLECS REGARDING**
324 **PRODUCT AND PRODUCT AVAILABILITY, SUCH AS SPECIAL**
325 **ACCESS TO UNE CONVERSION?**

326A. Yes, as previously discussed, Ameritech Illinois regularly sends out
327 notification to all CLECs in the form of Accessibility Letters. In addition,
328 the on-line CLEC Handbook is also updated as products are changed or
329 enhanced or processes improved or even eliminated. We began updating
330 the website as early as February 17, 2000 with contract language and

331 began sending accessible letters as early as April 2000. In fact, Globalcom
332 has received numerous notifications from SBC. Specifically, among those
333 listed in the distribution list of our Accessible Letter process at Globalcom
334 are Mr. Wince and Mr. Wurster. Examples of the letters and website
335 changes are discussed above. Globalcom had the information to convert
336 all along but choose other alternatives.

337

338Q. **HAS GLOBALCOM EVER MADE A REQUEST TO AMERITECH**
339 **ILLINOIS TO CONVERT SPECIAL ACCESS CIRCUITS TO**
340 **EELS?**

341A. Yes. It is my understanding that Globalcom made a "test" request for the
342 conversion of five circuits in late December of 2001. Globalcom has
343 acknowledged that this was the first and only request for conversion that it
344 has ever made to Ameritech Illinois. However, it is my understanding that
345 the requested circuits did not qualify for conversion because they violated
346 the FCC's prohibition of "commingling." Ms. Beata addresses this further
347 in her direct testimony.

348

349Q. **IN EXPLAINING WHY GLOBALCOM MADE NO CONVERSION**
350 **REQUESTS PRIOR TO DECEMBER OF 2001, MR. WINCE**
351 **ASSERTS THAT "AMERITECH DID NOT HAVE A TARIFF FOR**
352 **EELS, EITHER NEW OR CONVERSIONS, AVAILABLE PRIOR**
353 **TO ITS INTERIM COMPLIANCE TARIFF" EFFECTIVE ON**

354 **SEPTEMBER 18, 2001. (WINCE, PAGE 11) PLEASE COMMENT**
355 **ON MR. WINCE'S ASSERTION.**

356A. The absence of a state tariff for the conversion of Special Access circuits
357 prior to September of 2001 does not logically explain why Globalcom did
358 not request conversion prior to that date. As discussed above, Ameritech
359 Illinois has made conversions available since February 2000 and took
360 steps to make all CLECs, including Globalcom, aware of the availability
361 of criteria and procedures for requesting such conversions. Mr. Wince's
362 own testimony confirms this fact, as he acknowledges that Globalcom
363 considered requesting conversions in "late 2000 or early 2001" (Wince
364 Testimony, p.11). Globalcom had the opportunity since February 17,
365 2000 to either amend its ICA to include UNE Remand language that
366 provided for conversion of EELs, or to follow the reconfiguration process
367 identified earlier. Globalcom adopted the Focal Agreement in August
368 2001 that also contained terms and conditions for the EELS liability yet
369 still chose to take other actions.

370
371 Moreover, it is important that the Commission take note of Globalcom's
372 actions even after the Interim Compliance Tariff was in place. Globalcom
373 continued to order Special Access Circuits under the OPP Plan (some for
374 12 months, 36 and 60), during the months of September through
375 December 2001.

376

377 Q. HAS AMERITECH ILLINOIS RECEIVED ANY CERTIFICATION
378 LETTERS FROM CLECS OTHER THAN GLOBALCOM
379 REQUESTING THE CONVERSION OF SPECIAL ACCESS
380 CIRCUITS TO EELS IN ACCORDANCE WITH THE
381 CONVERSION PROCESS POSTED ON THE CLEC WEB SITE?

382A Yes. Ameritech has received seventeen requests. Fifteen (15) of the
383 seventeen (17) requested contained qualified circuits which proceeded to
384 the ordering process.

385 ☐ Six (6) requests, containing 249 total circuits, were
386 provisioned in full. Two (2) request with 24 circuits
387 total, contained circuits that are qualified.

388 ☐ Seven (7) requests were provisioned in part. The
389 total number of circuits requested was 283. Of this
390 number, 215 circuits were provisioned and 56 were
391 not provisioned. Of the 56 circuits that were not
392 provisioned, 36 were no longer in service, 9 were
393 previously converted, 1 did not meet the FCC co-
394 mingling requirements, 5 were not loop/transport
395 combinations and 5 circuits were not found. Two
396 circuits are pending.

397 ☐ Two requests containing 11 circuits were not
398 provisioned because they did not meet the co-

399 mingling requirements or were not loop/transport
400 combinations.

401

402Q. **WERE ANY OF THE REQUESTS DISCUSSED ABOVE**
403 **RECEIVED PRIOR TO SEPTEMBER 18, 2001?**

404A. Yes, prior to that date, the Ameritech received 4 certified requests for the
405 conversion of Special Access circuits. Those requests were granted in full.

406

407Q. **WHY DID AMERITECH ILLINOIS FILE AN INTERIM**
408 **COMPLIANCE TARIFF?**

409A. The Interim Compliance Tariff was filed to enable Ameritech Illinois to
410 offer to CLECs the new UNE-P and EEL combinations required by
411 Section 13-801 of the Act, pending the Commission's review of
412 Ameritech's proposed permanent 13-801 compliance tariff in docket 01-
413 0614. In compliance with Section 13-801, the Interim Compliance Tariff
414 also provides CLECs with the ability to use the UNE-P to terminate local
415 toll calls originated by customers who are pre-subscribed to the CLEC for
416 local toll service. At the request of the Commission Staff, Ameritech
417 Illinois also included in the tariff terms and conditions for the conversion
418 of Special Access circuits to UNEs.

419

420 **Q. IS IT AMERITECH'S POSITION THAT IT WAS REQUIRED TO**
421 **TARIFF THE TERMS AND CONDITIONS FOR THE**
422 **CONVERSION OF SPECIAL ACCESS CIRCUITS TO UNES?**

423A. No. The Section 13-801 does not require the conversion of Special Access
424 circuits to UNEs. Rather Ameritech's requirement to offer such
425 conversions to CLECs arises out of the orders of the FCC implementing
426 the federal Telecommunications Act of 1996(the "1996 Act"). The 1996
427 Act designates interconnection agreements, not tariffs, as the means for
428 making UNEs and UNE combinations available to CLECs. As I have
429 discussed, Ameritech included terms and conditions of Special Access to
430 UNE conversions in the Interim Compliance Tariff in an attempt to
431 cooperate with the Commission Staff. In doing so, however, the Company
432 made it clear that it does not believe that a tariff is a prerequisite for
433 acceptance of a CLEC's request for such conversions. (Petition for Special
434 Permission, par. 8, Docket 01-0586 (Sept. 10, 2002.))

435

436**Q. DOES GLOBALCOM CURRENTLY HAVE AN**
437 **INTERCONNECTION AGREEMENT (ICA) IN PLACE THAT**
438 **ALLOWS IT TO CONVERT SPECIAL ACCESS SERVICE TO**
439 **UNES?**

440A. Yes. Globalcom opted into the Focal/Ameritech Illinois ICA in 2001. That
441 ICA contains provisions that would allow Globalcom to convert Special
442 Access to UNEs in accordance with the FCC's local use test, as identified

443 in Schedule 9.5, "Provisioning of Network Elements." Globalcom's ICA
444 is dated March 2001 and was approved by the Illinois Commerce in
445 August 8, 2001.

446

447Q. **DID GLOBALCOM HAVE THE ABILITY TO ORDER**
448 **CONVERSIONS OF SPECIAL ACCESS CIRCUITS TO EELS**
449 **PRIOR TO THE EFFECTIVE DATE OF ITS CURRENTLY**
450 **EFFECTIVE ICA?**

451A. Yes. Ameritech is consistent with the FCC in its belief that a CLEC does
452 not need to have either an existing ICA in-place, nor an amendment to it,
453 in order to request the conversion of Special Access circuits. As I stated
454 earlier, Ameritech has had a means for a CLEC to request conversions
455 following the FCC's Supplemental Clarification.

456

457Q. **DOES THE LANGUAGE IN GLOBALCOM'S ICA COMFORM TO**
458 **THE REQUIREMENTS SET FORTH BY THE FCC?**

459A. Yes, it does. The language specifically states that Ameritech will convert
460 Globalcom's Special Access circuits to UNEs pursuant to the FCC Rule
461 315 (b). The language also goes so far as to list the safe harbors available
462 to Globalcom, and clearly states that Globalcom will qualify for
463 conversion if it meets only one of the criteria.

464

465 **Q. MR. WINCE ALLEGES THAT “ONE WAY AMERITECH MADE**
466 **EELS CONVERSION UNACCEPTABLE WAS TO INSIST ON A**
467 **TWO STEP PROCESS THAT REQUIRED THE REQUESTING**
468 **CARRIER TO SUBMIT A DISCONNECT ORDER THEN A**
469 **RECONNECT ORDER”. PLEASE RESPOND. (WINCE DIRECT,**
470 **PAGE 12)**

471A. In order to comply with the UNE Remand Order, SBC initially
472 implemented a two-step ordering process. (Schedule DFN-1). Contrary to
473 Mr. Wince’s assertion process was not intended to “make EELs
474 conversion unacceptable.” Rather the two-step process was implemented
475 based upon the functionality of the existing ordering and billing systems.
476 These ordering and billing systems were designed to order products and
477 services, they were not developed to convert one form of end-to-end
478 service(Special Access) into a totally different piece-by-piece product
479 (UNE combinations). In other words, due to the complexity of the systems
480 at the time the conversions originally occurred, it was quicker and more
481 efficient to implement the two-step process.

482
483**Q. MR. WINCE ASSERTS THAT AMERITECH WAS THE ONLY**
484 **ILEC WITH A MULTI- STEP PROCESS. IS HE CORRECT?**

485A. No, he is not. SWBT has had a multi-step process in place since it filed,
486 and had approved, Section 271 authority to provide long distance service
487 in the state of Texas. In its Order granting 271 approval, the FCC

488 concluded that a multi-step process was acceptable and not in conflict with
489 FCC rules:

490 “We thus conclude that these problems do not warrant a
491 finding that SWBT fails to provide nondiscriminatory
492 access to its provisioning systems and processes. Finally,
493 several commenters, including CompTel, argue that the
494 “three order process” is inherently discriminatory, as it
495 unlawfully splits already-combined elements apart and puts
496 them back together.⁵ We disagree with this
497 characterization of SWBT’s three-order process – SWBT
498 does not require carriers to order or pay for the network
499 elements separately, nor does SWBT physically separate
500 and reassemble the network elements. SWBT has
501 explained that the three orders simply correspond to
502 different functions that must be completed in its back office
503 systems.” (SWBT Kansas/Oklahoma 271 Order, FCC
504 Docket 00-238, ¶¶ 175-76).

505
506 In addition, other ILECs have also used a multi-step process for the
507 conversion of Special Access circuits to UNEs. In Joint Application by
508 BellSouth Corporation, BellSouth Telecommunications, Inc., And
509 BellSouth Long Distance, Inc for Provision of In-Region, InterLATA
510 Services In Georgia and Louisiana, FCC Docket 02-147, ¶ 200, the FCC
511 reiterated that a multi-step conversion process is not prohibited by its
512 rules.

⁵ See CompTel Texas II Comments at 3-4; Global Crossing Texas II Reply Comments at 2.

513

514Q. **HAS AMERITECH MADE ANY CHANGES TO ITS ORDERING**
515 **PROCESS FOR SPECIAL ACCESS TO EEL CONVERSIONS?**

516A. Yes, it has. As previously discussed, since the initial deployment, the SBC
517 ILECS, including Ameritech, have gone from a two-step to a one step
518 process for the CLEC. This process became available to CLECs in Illinois
519 in March, 2001. Though the CLEC currently only uses one-step, however,
520 because this is not a totally mechanized process flow, Ameritech is
521 continuing the two-step process behind the scenes. In other words, in order
522 to make it easier for the CLEC, Ameritech has added additional burdens
523 internally. Because each of these requested conversion is handled like a
524 special project, a great deal of manual effort is needed to complete the
525 conversion.

526 As previously discussed, Ameritech notified the CLEC community, via
527 Accessible Letter (Schedule DFN-1) regarding the process change; it has
528 also been documented in the CLEC on-line Handbook.

529

530Q. **GLOBALCOM CLAIMS THAT WHEN CONVERTING AN**
531 **ACCESS SERVICE TO UNE IS THERE ONLY A SIMPLE**
532 **BILLING CODE CHANGE. IS THIS A TRUE STATEMENT?**

533A No. The conversion of Special Access to UNEs is a very detailed process
534 that encompasses the involvement of several different groups, including
535 ordering and provisioning.

536 The ordering piece of the conversion begins with the Local Service Center
537 (LSC) reviewing the spreadsheet received from the Access Service Center
538 (ASC). The LSC reviews the order in EXACT checking for the correct
539 Field Identifier (FID), Connecting Facility Assignment (CFA) availability,
540 and Circuit Identification (CKT ID) assignment. They then co-ordinate the
541 due date with the ASC and order numbers; they issue the order and verify
542 that it went to TIRKS. This portion of the conversion ends with a Firm
543 Order Confirmation (FOC) back to the CLEC.

544 In conjunction with the LSC, the ASC also has a number of activities
545 taking place. The ASC begins with a review of the information provided
546 to them from the account manager. They create a new spreadsheet with an
547 ASC order number, actual due date, Effective Bill Date (EBD), and LSC
548 Exchange Company Circuit (ECCKT) information and order number. The
549 ASC then participates in an internal call with the LSC, Account
550 Management, the Circuit Provisioning Center (CPC), and High Capacity
551 Provisioning Center (HPC). The ASC then creates a disconnect order from
552 CABs records and calls the LSC to coordinate order issuance. At this
553 point, the ASC also confirms that the order has flowed through to TIRKS.
554 This portion of the conversion ends with a final internal conference call
555 with the project group to verify all of the necessary orders were
556 issues.

557

558 Three additional workgroups must also play a role in the conversion
559 process. The HPC reviews the mechanized order and processes any
560 manual fall-out which may have occurred. In conjunction, the Digital
561 Operations Group (DOG) reviews the document, locates and retags the
562 converted Special Access circuit and completes their piece of the order.
563 The Hi-Cap Control Center (HCCP) coordinates with other departments
564 and administratively closes out the order

565

566Q. MR.WINCE HAS A “CONCERN” THAT, UNDER THE TERMS OF
567 THE INTERIM COMPLIANCE TARIFF, “AMERITECH WILL
568 OBJECT TO CONVERTING ANY CIRCUIT WHERE
569 TRANSPORT DOES NOT TERMINATE AT A COLLOCATION
570 FACILITY”. (WINCE DIRECT, PP. 19-20). IS MR. WINCE’S
571 CONCERN JUSTIFIED?

572A. No. The Interim Compliance Tariff does not specify a collocation
573 requirement for conversions of Special Access circuits to EELs. The tariff
574 incorporates by reference the FCC’s local use test established in the
575 Supplemental Order Clarification. One of the three “safe harbors” options
576 allows conversions by carriers the ability to terminate an EEL without a
577 collocation facility requirement.

578

579 **Q. WILL AMERITECH ILLINOIS ALLOW SPECIAL ACCESS**
580 **CONVERSION TO UNES USING THE FCC'S LOCAL USE TEST,**
581 **OPTION NO. 3?**

582A. Yes. As long as a CLEC meets the qualifications identified by the FCC in
583 both the Supplemental Order and the Supplemental Order Clarification,
584 Special Access service conversion is allowed. The CLEC must certify that
585 it uses Special Access arrangements to provide a significant amount of
586 local exchange service to its end-user customer. Option 3 is identified by
587 the FCC as one of the safe harbors available for use by a CLEC. As I have
588 previously stated, Ameritech will accept requests to reconfigure existing
589 Special Access service arrangements to combinations of UNEs pursuant to
590 the Ordering requirements identified in the CLEC on-line Handbook
591 (<https://clec.sbc.com>); all of the associated terms and conditions apply.

592
593**Q. HAS AMERITECH ILLINOIS INDICATED TO GLOBALCOM**
594 **THAT IT HAS TO BE COLLOCATED IN ORDER TO QUALIFY**
595 **FOR A CONVERSION UNDER SAFE HARBOR NO. 3?**

596A. No. Moreover, any doubt that Globalcom had about this matter, should
597 have been eliminated by Ameritech's March 19, 2002 Response to
598 Globalcom's March 14, 2002 Notice of alleged violation. A copy of that
599 response is attached to Ameritech Illinois' Answer to Globalcom's First
600 Amended Complaint.

601

602 **Q. GLOBALCOM STATES THAT IT DOES NOT HAVE TO PAY**
603 **THE TARIFFED TERMINATION CHARGES APPLICABLE TO**
604 **THE EARLY TERMINATION OF SPECIAL ACCESS SERVICES**
605 **PURCHASED UNDER THE OPP PLANS. DO YOU AGREE?**

606A. No, I do not. The tariff identifies specific terms and conditions associated
607 with the OPP Plans. These terms and conditions clearly state that early
608 termination charges will apply when a CLEC wishes to terminate service
609 prior to the expiration of the OPP term agreement. Because Globalcom
610 made the decision to opt into one of the OPP plans identified, it also opted
611 into the associated terms and conditions of that plan, including the
612 termination charge provision. The OPP plans and associated termination
613 charges are discussed more fully in Ms. Douglas' Testimony.

614

615**Q. AT PAGE 17 OF HIS TESTIMONY, MR. WINCE ASSERTS THAT**
616 **THE CONVERSION OF SPECIAL ACCESS SERVICE TO EELS**
617 **CONSTITUTES A TERMINATION OF SERVICE UNDER AN OPP**
618 **PLAN. AS SUCH, HE CONCLUDES THAT AMERITECH**
619 **ILLINOIS SHOULD NOT HOLD GLOABALCOM RESPONSIBLE**
620 **FOR EARLY TERMINATION CHARGES. PLEASE RESPOND.**

621A. I disagree with Mr. Wince's assertions. As Ms. Douglas discusses, the
622 termination charge is a term and condition of special access service When
623 a customer converts a special access service to EELs (a combination of
624 UNEs) prior to the expiration of the OPP term agreement, the result is a

625 termination of the customer's agreement to purchase special access tariff
626 for a specified period of time at discounted rates established in the tariff.

627

628Q. **DOES GLOBALCOM'S ICA INCLUDE LANGUAGE**
629 **ADDRESSING TERMINATION LIABILITY?**

630A. Yes, it does. Specifically, in section 2.0.3, in the Commission approved
631 ICA that Globalcom agreed with and signed, the following language
632 states,

633 2.0.3: Requesting Carrier must pay any applicable
634 termination charges for the Special Access circuits that may
635 be terminated early in order to convert to UNEs.

636

637Q. **MR. WINCE SUGGESTS THAT THE ASSESSMENT OF**
638 **TERMINATION CHARGES UPON THE CONVERSION OF**
639 **SPECIAL ACCESS CIRCUITS TO UNES WOULD BE**
640 **CONTRARY TO THIS LANGUAGE FROM THE ICA. DO YOU**
641 **AGREE?**

642A. No. Mr. Wince suggests that Globalcom is not requesting the early
643 termination of special access circuits for purposes of Section 2.0.3 because
644 Globalcom has "agreed to be bound by the original term for each of its
645 converted circuits." As Ms. Douglas explains, however, the term "special
646 access circuit" is one used to describe a loop-transport combination when
647 it is purchased as a service out of a special access tariff. When a "special
648 circuit" is converted to UNEs, it is no longer a "special access circuit."

649 Thus, the phrase “special access circuits that may be terminated early in
650 order to convert to UNEs,” as used in Section 2.0.3, refers to precisely the
651 situation in which a term agreement for the purchase of special access
652 circuits out of the special access tariff at discounted special access rates is
653 terminated early to allow for the conversion of those circuits to UNEs.
654 Section 2.0.3 affirms that in such a situation, applicable early termination
655 charges shall apply regardless of whether there is a physical change in the
656 facilities comprising the circuit when it is converted to an EEL.

657

658Q. **DO YOU HAVE ANY OTHER SUPPORT FOR YOUR**
659 **UNDERSTANDING OF SECTION 2.0.3?**

660A. Yes. The language of Section 2.0.3. is included in the ICA between Focal
661 Communications and Ameritech Illinois that was arbitrated in Docket 00-
662 0027 and which was adopted by Globalcom. In objecting to proposed
663 contract language identical to the language ultimately included in Section
664 2.0.3, Focal witness Starkey argued (as he does here on behalf of
665 Globalcom) that “termination charges . . . should not be automatically
666 applied as a matter of course when special access circuits are converted to
667 EELs” since the “underlying network configuration remains the same.”
668 Verified Statement of Michael Starkey, pp. 66-67, 69-70, Docket No. 00-
669 0027 (Jan. 31, 2000). In response, Ameritech Illinois explained that the
670 requirement of Section 2.0.3 is “specifically authorized” by the language
671 of the UNE Remand Order (at ¶ 486, n. 985) previously quoted. Verified

672 Statement of Patricia K. Fleck, Docket 00-0027, p. 8. In supporting the
673 language of Section 2.0.3, Staff witness Garvey stated “the UNE Remand
674 Order specifically states that appropriate termination penalties required
675 under volume or term contracts may be applied when converting special
676 access to EELs.” Verified Statement of John M. Garvey, Docket 00-
677 0027, p. 9 (Feb. 28, 2000).

678
679 Thus, it is clear that Staff and the original parties to the ICA (Ameritech
680 Illinois and Focal) all understood the language of Section 2.0.3 as
681 affirming Ameritech Illinois’ right to assess early termination charges,
682 such as those authorized by F.C.C. Tariff No. 2, in precisely the situation
683 at issue here: a request by a carrier, such as Globalcom, to terminate a
684 special access service plan prior to its expiration date for the purpose of
685 converting existing special access circuits to an existing combination of
686 UNEs. Globalcom’s adoption of the Ameritech Illinois/Focal ICA
687 pursuant to Section 47 CFR 252(i) did not (and could not) have the effect
688 of altering the meaning of the ICA’s provisions, including Section 2.0.3,
689 as they exist in the agreement between Ameritech Illinois and Focal.

690

691Q. **WHAT IS THE BASIS FOR THE TERMINATION CHARGES**
692 **REFERRED TO IN THE SECTION 2.03 REFERRED TO IN THE**
693 **PREVIOUS ANSWER?**

694 A. Special Access services are purchased out of Special Access tariffs. These
695 tariffs have terms and conditions related to termination liabilities that
696 apply to purchases of Special Access under term and volume commitment
697 plans. Under these plans, Ameritech has offered the purchasing carrier a
698 discounted rate in return for a commitment from that carrier purchase
699 certain volumes of Special Access circuits, or to retain their level of
700 Special Access purchases for a given period of time. The Special Access
701 tariff is very clear that in the event the carrier chooses to terminate this
702 agreement prior to meeting the terms and conditions spelled out in that
703 tariff, a specified termination liability would apply. The applicability of
704 those termination liabilities is governed by those tariffs, not by the ICA.
705 Globalcom did not purchase their Special Access service from the ICA.

706

707Q. **DOES THE FCC ADDRESS TERMINATION LIABILITY AS IT**
708 **RELATES TO CLEC'S WHO WISH TO CONVERT SPECIAL**
709 **ACCESS SERVICE TO UNES PRIOR TO THE END DATE OF**
710 **THE AGREEMENT?**

711A. Yes, it does. The FCC is very clear in the *UNE Remand* about who bears
712 the burden for termination cost. While addressing situations where "those
713 unbundled network elements are already combined as a Special Access
714 circuit," the FCC states:

715 We note ... that any substitution of unbundled
716 network elements for Special Access would require

717 the requesting carrier to pay any appropriate
718 termination penalties required under volume or term
719 contracts.⁶

720

721 The FCC's meaning is clear: requesting carriers (in this case, Globalcom)
722 should be responsible for any termination liabilities required under the
723 terms and conditions of the special access agreements. The FCC has
724 indicated that statement in the UNE Remand Order applied to precisely
725 the type of situation at issue here. In Net2000 Communications, Inc. v.
726 Verizon, FCC 01-381 (released January 9, 2002), the FCC addressed a
727 complaint involving Net2000's efforts to convert Special Access circuits
728 to EELs. As in this case, the requested conversions did not involve a
729 physical disconnection of the facilities used to provide Special Access
730 service. Rather, it involved a request by Net2000 to "reprice certain
731 Special Access circuits into a combination of unbundled network
732 elements." (Net2000 Communications, ¶ 3). The FCC made it clear that
733 such conversions would constitute an early termination of Special Access
734 circuits purchased under Verizon's term tariff offering, thereby subjecting
735 Net2000 for termination liability:

736 "We conclude that it was reasonable for Verizon to request that
737 Net2000 confirm that it wished to go ahead with the conversions
738 before implementation. Verizon had calculated that the
739 conversions requested by Net2000 would result in relatively large
740 termination liability and minimum period charges as a result of
741 conversion of Special Access circuits being provided in accordance

⁶ *UNE Remand Order*, ¶ 486 n. 985 (emphasis supplied).

742 with Verizon's term tariff offering." Net2000 Communications,
743 FCC 01-381, ¶ 35.
744

745Q. **HAS THIS ISSUE BEEN ADDRESSED BY THIS COMMISSION IN**
746 **PRIOR HEARINGS?**

747A Yes. This Commission agreed with Ameritech's proposal that termination
748 liability charges were appropriate in the Level 3 hearing (Docket no. 00-
749 0332). During that proceeding, Level 3 alleged that that,

750 "Since the carrier in question will continue to make
751 use of the circuit provided as an EEL, there is no "termination" of
752 service in the true sense of that word. Moreover, the conversion of
753 a Special Access circuit to an EEL should involve nothing more
754 than a billing change; therefore, Ameritech should not be
755 entitled to collect the full nonrecurring charge for each network
756 element that makes up the EEL as if each element were being
757 made available for the first time" (Post Hearing Arbitration Brief
758 of Level # Communications, LLC page 63).

759 This argument is very similar to the one made by Globalcom in this case.
760 The Commission rejected Level 3's argument, stating the following,

761 "The FCC and various State Commission have consistently held
762 that the CLEC should remain responsible for termination fees.
763 There is no reason at this point to take a fresh-look at termination
764 charges. We agree with Ameritech that if the FCC felt a fresh look
765 was mandated or appropriate would have so stated in its UNE
766 remand."
767

768Q. **MR. WINCE (PP. 12-13) DISCUSSES AN ATTEMPT BY**
769 **GLOBALCOM TO ORDER NEW EELS. DOES AMERITECH**

770 **ILLINOIS CURRENTLY ENABLE A CLEC TO ORDER “NEW”**
771 **EEL COMBINATIONS PURSUANT TO TARIFF?**

772A. Yes. On September 10, 2001, Ameritech Illinois filed a petition for special
773 permission requesting the ICC to place into effect the tariff sheets
774 designated as Ill. C.C. No. 20, Part 19, Section 22. Original Sheets
775 Number 1 through 5 (the “Interim Compliance Tariff”).

776 The purpose of the Interim Compliance Tariff is to ensure that the specific
777 combinations are available under tariff terms and conditions. The ICC
778 granted the requested permission and the Interim Compliance Tariff
779 became effective on September 18, 2001. The Interim Compliance Tariff
780 enabled Ameritech Illinois to begin accepting and processing orders for
781 the new UNE combinations, pending the ICC’s review of the Company
782 proposed “permanent” compliance tariff.

783

784Q. **MR. WINCE CLAIMS THAT AMERITECH DID NOT OFFER**
785 **“NEW” EELS AFTER DECEMBER 19, 2001. PLEASE RESPOND.**

786A. Mr. Wince is incorrect in his claim that Ameritech did not offer “new”
787 EELs. When a loop-transport combination is not currently, physically
788 combined, then it is, by definition, new, and work must be done to create
789 the combination. The tariff very clearly identifies several new EELs that
790 Ameritech does indeed offer.

791

792 **Q WHY DID AMERITECH NOT MAKE “NEW” EELS AVAILABLE**
793 **PRIOR TO THE TARIFF FILINGS?**

794A. Ameritech Illinois does not believe it had a legal obligation to offer “new”
795 EELs prior to the effective date of Section 13-801 of the Public Utilities
796 Act (“PUA”) on June 30, 2001. Language was included in that Section
797 that said:

798 “Upon request, an incumbent local exchange carrier
799 shall combine any sequence of unbundled network
800 elements that it ordinarily combines for
801 itself...”(13-801, (d) Network elements (3)).

802 Prior to the passage of that Section of the Illinois PUA there was no State
803 requirement, nor was there any federal requirement, to provide “new”
804 EELs. In fact, the FCC had specifically declined to define EEL as a
805 separate network element or to require an incumbent LEC to perform the
806 work necessary to combine the loops and dedicated transport (UNE
807 Remand Order at pp. 478-482)

809

810**Q DOES GLOBALCOM’S EXISTING REQUIRE AMERITECH**
811 **ILLINOIS TO PROVIDE GLOBALCOM WITH “NEW” EELS?**

812A. No, it does not. The ICA identifies the requesting carrier, in this case,
813 Globalcom, as the party responsible for performing the work of combining
814 network elements that are not already combined.

815 “Ameritech shall provide Requesting Carrier [Globalcom]
816 access to Network Elements via Collocation or any technically

817 feasible method pursuant to 2.2 in a manner that shall allow [Globalcom]
818 to combine such Network Elements to provide a Telecommunications
819 Service.” (ICA, Section IX, 3.1).
820

821II I. RESPONSE TO MR. STARKEY

822Q MR. STARKEY ALLEGES THAT BETWEEN NOVEMBER 1999
823 AND JANUARY 2002 “AMERITECH ILLINOIS DID NOT HAVE A
824 UNE OFFERING FOR COMPETITIVE CARRIER” (STARKEY
825 DIRECT, PAGE 5). IS MR. STARKEY’S ALLEGATION
826 CORRECT?

827A. No. During the referenced time period, Ameritech Illinois has provided
828 both stand-alone UNEs (as were identified by the Act), and existing
829 combinations of UNEs as required. As discussed above, this has included
830 any obligations to provide existing combinations of UNE loops and UDT.
831 During the period in question, Ameritech Illinois had two interconnection
832 agreements with Globalcom, pursuant to which UNEs were made
833 available to Globalcom. Moreover, Globalcom has acknowledged in
834 response to a data request from the ICC Staff that Globalcom successfully
835 converted thousands of resale POTS and Centrex lines to the unbundled
836 network element platform since period June 30, 2001 and that it “is not
837 aware of any significant number of denied requests for such conversions”.
838 (Response of Globalcom to Staff Data Request JZ-1.01(g)).
839

840 **Q. MR. STARKEY CLAIMS THAT GLOBALCOM WAS NEVER**
841 **PROVIDED “AN OPPORTUNITY TO UTILIZE A**
842 **COMBINATION OF UNES”. (STARKEY DIRECT, PAGE 6) IS**
843 **MR. STARKEY CORRECT?**

844A. No. As I have previously stated, Ameritech Illinois has made UNEs and
845 UNE-P combinations available to Globalcom. In addition to the UNE
846 discussed above, the Company has made special access to EEL
847 conversions available to Globalcom and other CLECs since the effective
848 date of the UNE Remand Order and Supplemental Order. Ameritech has
849 offered, via the CLEC handbook on-line, the opportunity for a CLEC to
850 convert their existing special access circuits to UNEs, so long as the
851 CLEC meet the requirements outlined by the FCC and identify which of
852 the safe harbors they wanted to use. Moreover, Ameritech has offered, via
853 the CLEC handbook on-line, the opportunity for any CLEC to convert
854 their existing special access circuits to UNEs, whether or not its ICA
855 expressly allows for such conversions, so long as the requested conversion
856 meets the FCC’s requirements for one three local use tests.

857
858 Globalcom’s ICA also provides it with access to, at a minimum, stand-
859 alone unbundled local loops and interoffice transmission facilities
860 (unbundled dedicated transport). The ICA also provides that Globalcom
861 “shall have access to Network Elements via Collocation or any technically
862 feasible method pursuant to 2.2 in a manner that shall allow [Globalcom]

863 to combine such Network Elements to provide a Telecommunications
864 Service”. (ICA, Section IX.3.1) Globalcom has provided no evidence that
865 it has been denied access to network elements in compliance with
866 contractual provision. Furthermore, Globalcom has acknowledged that
867 this provision does not require Ameritech Illinois to do the work of
868 combining UNEs that are not already combined. As previously discussed,
869 however, since September 18, 2001 Ameritech Illinois has had
870 an effective Illinois tariff setting forth terms and conditions under which
871 Ameritech Illinois will perform the work necessary to combine UNEs to
872 create 12 new UNE-P combinations and 8 new EEL combinations. This
873 tariff was filed in compliance with Section 13-801 of the Illinois Public
874 Utilities Act.

875

876Q. **MR. STARKEY ARGUES THAT AMERITECH ILLINOIS HAS**
877 **HAD AN OBLIGATION TO PERFORM THE WORK OF**
878 **CREATING NEW COMBINATIONS OF UNE LOOPS AND**
879 **DEDICATED TRANSPORT SINCE 1996. DO YOU HAVE ANY**
880 **COMMENTS IN RESPONSE TO MR. STARKEY’S ASSERTIONS**
881 **(STARKEY DIRECT, PAGES 6, 10, 34-35).**

882A. Yes. Mr. Starkey, a non-lawyer, is offering legal opinions regarding the
883 meaning of certain regulatory orders and a decision of the U.S. Supreme
884 Court. Although I, like Mr. Starkey , am not a lawyer, I will offer two
885 observations in response to Mr. Starkey’s legal “analysis”. First, Mr.

886 Starkey quotes language from a 1996 ICC Order (Docket 95-0458/0531)
887 referring to “LDDS and Staff platform proposals” and argues that this
888 language “without misinterpretation” required Ameritech Illinois to offer
889 any combinations of UNEs in any fashion requested by competing
890 carriers. (Starkey Test., p. 34). The Commission itself, however, has not
891 interpreted the Order in Docket 95-0458/0531 in this manner. That Order
892 does not appear to deal with new combinations or EELs. Rather, the Order
893 dealt with the introduction of the concept of UNE-P which, described in
894 the Staff proposal in that case, follows:

895 “...the local exchange network as consisting of
896 three components: loop, lsp (local switch platform)
897 and interoffice transport” (page 58)

898
899 The inclusion of the “local switch platform” identifies the requirement for
900 UNE-P, not a loop/transport EEL combination.

901

902 The Commission later agreed, on page 63, that

903 “...the platform approach in the record is consistent
904 with the federal act”

905

906 In this regard, Mr. Starkey clearly states in his testimony what an EEL is,
907 and his definition is certainly different, as it should be, than the definition
908 of the Commission regarding UNE-P (page. 32...An EEL is nothing more
909 than the combination of an unbundled loop, possibly

910 multiplexing/concentration, and unbundled interoffice transmission
911 facilities). Moreover, in another subsequent case (Docket No. 90-0503),
912 the Commission expressly rejected Mr. Starkey's interpretation of the
913 Order in Docket 95-0458/95-0531, stating that a "close reading of the
914 Commission's conclusion [in that case] indicates that this was a decision
915 that required unbundling by the LEC and allowed rebundling by the
916 competing carrier. It did not require the provision of LEC combinations
917 priced upon the cost of the underlying network elements....For these
918 reasons, we do not order GTE to provide combinations of network
919 elements at unbundled network element prices pursuant to state law."
920 Order, Docket 96-0503, 1998 Ill. PUC Lexis 390 at *20 (May 19, 1998).

921
922 Second, Mr. Starkey completely ignores the FCC's UNE Remand Order's
923 discussion of EELs. As previously discussed, in that Order, the FCC
924 expressly declined to require ILECs to provide new EELs, stating that "we
925 neither define the EEL as a separate unbundled network element nor
926 interpret Rule 51.315(b) as requiring incumbents to combine unbundled
927 network elements that are 'ordinarily combined'". UNE Remand Order,
928 par. 480.

929 Globalcom's argument that Ameritech Illinois had a legal obligation to
930 provide new EELs at all times since 1996 is addressed more fully in the
931 Company's Reply in Support of its Motion to Dismiss. In the event that

932 the Motion is not granted, Mr. Starkey legal “analysis” will be further
933 addressed by the Company in its post-hearing brief.

934

935Q. **MR. STARKEY ALLEGES THAT THE MANY FCC AND ICC**
936 **DECISIONS REGARDING TERMINATION LIABLITIES DO NOT**
937 **APPLY TO GLOBALCOM. PLEASE RESPOND.**

938A. Mr. Starkey asserts that Globalcom’s situation is unique for three reasons,
939 1) the changing nature of Illinois law; 2) Illinois’ interim tariff filing (or
940 lack there of) and 3) an offer to maintain existing circuits at their current
941 volumes, for the term of the original agreement.

942

943 Let me begin with his first reason. The changes to which Mr. Starkey
944 refers have nothing to do with termination liability charges. As previously
945 discussed, the FCC has continuously maintained that terminating liability
946 charges should, and in fact do, apply to a CLEC that chooses to terminate
947 an existing OPP purchased from a Special Access tariff prior to the
948 termination date of that OPP. The Illinois Legislation he is referring to
949 requires Ameritech Illinois to provide “new” combinations or EELs, it
950 does not alleviate the responsibility of early agreement termination
951 charges. The recent U.S. Supreme Court decision to which Mr. Starkey
952 refers (he doesn’t specifically identify the order), addresses combinations,
953 and the ILECs responsibility of providing access to, or in special
954 situations, actually combining, UNEs. Again, this decision does not

955 address, nor does it absolve a CLEC from early termination liability
956 responsibilities.

957

958 Regarding Mr. Starkey's second reason, he criticizes Ameritech Illinois
959 for not offering a tariff "that would have provided it access to EELs when
960 it originally ordered Special Access circuits" (Starkey direct, page 8).

961 There was however, never any requirement from that Ameritech offer new
962 EELs prior to the enactment of Section 13-801 of the Illinois PUA.

963 Ameritech Illinois's efforts to comply with the new law are discussed
964 more fully by Mr. Wardin. As a result of its efforts, an Interim
965 Compliance Tariff enabling Ameritech Illinois to offer new EELs became
966 effective on September 18, 2001. Ameritech has recognized that under
967 FCC Rule 51.315 (b) it is required to leave existing combinations of UNEs
968 intact, unless the requesting CLEC asks Ameritech to break up that
969 combination. Therefore, if Globalcom had requested Ameritech to convert
970 Special Access circuits to UNE loop/UDT combinations it would have
971 done so. Globalcom is well aware that this has been available to them, and
972 has been notified that Ameritech will continue to do so provided they
973 certify they have met one of the three options set forth by the FCC to
974 demonstrate they are offering a significant amount of local usage over the
975 requested UNE combination. Once again, Starkey's references do not
976 support the facts.

977

978 Finally, as discussed by Ms. Beata and Ms. Douglas, Globalcom's offer to
979 maintain its current volume of circuits as EELs over the remainder of the
980 original OPP term under which those circuits were purchased cannot
981 relieve Globalcom of its obligation to pay termination charges under the
982 terms of the Company's Special Access Tariff. Globalcom, upfront,
983 agreed to purchase a specific number of Special Access circuits under the
984 special access tariff for a given period of time for a discounted price. By
985 purchasing service under the OPP plan, Globalcom obligated itself to pay
986 the termination charges that apply under the tariff to an early termination
987 of service.

988

989Q. **MR. STARKEY (PP. 16-17), LIKE WINCE, ASSERTS THAT THE**
990 **IMPOSITION OF TERMINATION CHARGES WOULD VIOLATE**
991 **THE TERMS OF THE GLOBACOM/AMERITECH ICA**
992 **AGREEMENT. PLEASE RESPOND.**

993A. The referenced contract provision states that "[Globalcom] must pay any
994 applicable termination charges for special access circuits that may be
995 terminated early in order to convert to UNEs." Mr. Starkey asserts that the
996 termination charges under the Special Access Service Tariff are not
997 applicable because they only apply in the case of a "termination of service
998 prior to the expiration date of the OPP term". Mr. Starkey then contends
999 that a conversion of special access circuits to UNEs does not constitute a
1000 "termination of service" within the meaning of Section 7.4.10(C) of the

interstate special access tariff. Thus, Mr. Starkey's argument does not appear to be the Company's interpretation of the ICA, but with the Company's interpretation and application of the special access tariff. As I have previously discussed, the decisions of the FCC and this Commission make it clear that the conversion of special access circuits to UNEs prior to the expiration of a term pricing agreement does constitute a "termination of service" for purposes of the tariffed termination liability provisions.

Q. **MR. STARKEY ASSERTS THAT THE FCC'S LOCAL USE TEST SHOULD NOT APPLY TO "NEW" COMBINATIONS OF EELS. DO YOU AGREE?**

A. No. Ameritech Illinois addressed this issue in Docket No. 01-0614. Specifically, the FCC restricted the use of EELs to those carriers providing significant amounts of local exchange service partly out of its "concern that allowing requesting carriers to use loop-transport combinations solely to provide exchange access service to a customer, without providing local exchange service, could have significant policy ramifications because unbundled network elements are often priced lower than tariffed Special Access services" and thus "universal service could be harmed." (Supplemental Order Clarification, ¶ 2) The FCC made clear that this concern was not limited to the "conversion" of Special Access arrangements, but was directed at any use of loop-transport UNE

combinations in place of Special Access arrangements: “[P]ermitting the use of combinations of unbundled network elements in lieu of Special Access services could cause substantial market dislocations and would threaten an important source of funding for universal service.” (Id., ¶ 7)

The also FCC identified two additional considerations as support for the local usage restrictions: (i) a recognition that there is currently insufficient evidence to conclude that denying CLECs access to unbundled loop and dedicated transport elements would “impair” their ability to compete in the “exchange market” (as opposed to the “local exchange market”); and (ii) a concern that “an immediate transition to unbundled network element Special Access could undercut the market position of many facilities-based access providers.” (Supplemental Order Clarification, ¶¶ 16, 18)

These considerations, like the concern for the Special Access revenues, apply equally to new EELs as they do to existing EELs.

In its Order in Docket No. 01-0614, the Commission rejected a CLEC proposal to eliminate from Ameritech Illinois’ tariffs language applying to local use test to new EELs. The Order also states that this issue will be further addressed in another proceeding. Accordingly, there is no basis to adopt Mr. Starkey’s position in this case.

1046 Q. **DOES THIS CONCLUDE YOUR TESTIMONY?**

1047 A Yes.

Reconfiguring Special Access Service Arrangements to Combinations of Unbundled Network Elements (UNEs)

This document is intended to describe the self-certification criteria required in order for Telecommunications Carriers to reconfigure or convert existing special access service arrangements to combinations of UNEs. The criteria in Section I below is based upon the definitions promulgated by the Federal Communications Commission (FCC) in *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Supplemental Order Clarification, FCC 00-183 (released June 2, 2000).

I. Qualification Criteria

A. Loop and Transport Combinations

Requesting carriers may reconfigure a special access service arrangement to a combination of unbundled loop and transport network elements when the requesting carrier provides a "significant amount of local exchange service" (Supplemental Order Clarification at para. 22.). The special access service arrangement must meet the criteria of one of the following options:

Option I

- The telecommunications carrier is the exclusive provider of an end user's local exchange service
- Collocation is required for this option
- This option does not allow loop-transport combinations to be connected to incumbent LEC's tariffed services

Option II

- The telecommunications carrier provides local exchange access service to the end user customer and handles at least one third (33 %) of the end user-customer's local traffic measured as a percent of total end user customer lines and
- At least 50% of the activated channels on the loop portion of the loop and transport combination have at least 5% local voice traffic individually and
- The entire loop facility has at least 10% local voice traffic and
- If a loop-transport combination includes multiplexing (e.g., DS1 multiplexed to DS3 level), each of the individual DS1 circuits meets the above criteria for this option.
- Collocation is required for this option
- This option does not allow loop-transport combinations to be connected to incumbent LEC's tariffed services

Option III

- At least 50% of the traffic on at least 50% of the channels on the loop portion of the facility is local voice traffic and
- The entire loop facility has at least 33% local voice traffic and
- If a loop-transport combination includes multiplexing (e.g., DS1 multiplexed to DS3 level), each of the individual DS1 circuits meets the above criteria for this option
- Collocation is not required for Option III
- This option does not allow loop-transport combinations to be connected to incumbent LEC's tariffed services

B. Loops Terminating in a Collocation Space

Loops that terminate in a collocation space may be purchased as UNEs.

C. Ongoing Qualification

- If a requesting telecommunications carrier becomes aware that the circuit does not meet the certification criteria listed above, it shall, within 10 days, notify the incumbent local exchange carrier and reconfigure the unbundled loop and transport combination to special access service.
- A requesting telecommunications carrier that has reconfigured a special access circuit to a UNE combination will take reasonable measures on an ongoing basis to ensure that all certifications remain valid.

II. Ordering Requirements

SBC will accept requests to reconfigure Special Access service arrangements to combinations of UNEs using the existing ordering processes for Unbundled Loops and Unbundled Local Transport with the following modifications:

- Telecommunications Carrier (TC)/Competitive Local Exchange Carrier (CLEC) sends to Account Manager a completed Certification Letter or Certification Spreadsheet identifying the specific circuits (i.e., circuit ID numbers) to be converted and the option under which they are certified.
- All reconfigurations of Special Access service arrangements to UNE combinations will be handled as projects. Due dates for all projects are to be negotiated. TC/CLEC must send the certification letter and/or spreadsheet to the Account Manager. This spreadsheet is IN ADDITION to, not in lieu of, the issuance of ASR/LSR/EDI orders. For reconfigurations including multiplexing, a spreadsheet must contain all circuit IDs in the Special Access service arrangement (higher speed and all riding circuits).

- TC/CLEC issues ASR to ASC (Access Service Center) to discontinue billing of the access circuit
 - Include RPON of Loop LSR/ASR/ISR sent to LSC (Local Service Center)
 - Include RPON of any other related orders in Remarks section
 - Include Project Name of AC2U
- TC/CLEC issues ASR/LSR/ISR to LSC to establish Transport, Cross Connects to Collocation Cage, and Multiplexing (if applicable)
 - Include RPON of Loop LSR/ASR/ISR sent to ASC (Access Service Center)
 - Include RPON of any other related orders in Remarks section
 - Include Project Name - AC2U
 - SWBT Region only - the CHC and DFDT is populated on the LSR

Ameritech Only

- TC/CLEC issues ASR/LSR to LSC to establish local transport and cross connects to the collocation cage
 - Include RPON of related loop ASR/LSR sent to Ameritech LSC
 - Include RPON of any other related orders in Remarks section
 - Include Project name - AC2U

SNET Only

- TC/CLEC issues LSR/ASR to LSC to establish Loop
 - Include RPON of ASR sent to ASC
 - Include RPON of other related orders (i.e. Transport, Cross Connects) in Remarks section
 - Include Project Name - AC2U

III. Billing

- Termination liability, if applicable, will be billed at the time of reconfiguration of the Special Access circuit.
- All UNE NRCs in the configuration will apply unless a state commission has ruled otherwise.

IV. Switched Access and Local Interconnection Trunking

When Switched Access trunks ride channelized Special Access circuits, the Switched trunks must be groomed off of the Special Access circuit before it can be reconfigured.

If Switched Access trunks ride a Switched Access higher speed circuit, the trunks must be groomed off, and the circuit converted to Special Access before it can be reconfigured.

Accessible



"(ORDERING AND PROVISIONING) Revision of the Ordering Process for Special Access to Unbundled Network Element Conversions – Illinois, Indiana, Michigan, Ohio, Wisconsin"

Date: February 1, 2001

Number: **CLECAM01-023**

Contact: Account Manager

Category: UNE

The purpose of this Accessible Letter is to inform you of the updated ordering process for *Special Access to Unbundled Network Element Conversions*. Effective February 1, 2001, Southwestern Bell Telephone Company (SWBT) will implement a new process. On March 1, 2001, the remaining SBC states will follow suit.

The detailed outline of the entire procedure may be found on CLEC Online (<https://clec.sbc.com/>) in the CLEC Handbook, under the document of "Reconfiguring Special Access Service Arrangements to Combinations of Unbundled Network Elements (UNEs). Please review the Ordering Requirements. An overview of the updated process is set forth below:

- To initiate the conversion process, a Telecommunications Carrier (TC)/Competitive Local Exchange Carrier (CLEC) must send the Account Manager a correctly completed certification letter that lists each circuit to be converted and the option from the FCC's *Supplemental Order Clarification* under which each circuit qualifies.
- SBC will handle all reconfigurations of Special Access arrangements to UNEs as projects. Critical dates and due dates for all projects will be negotiated.
- After the due dates are established the TC/CLEC must issue a Local Service Request (LSR) to the Local Service Center (LSC or an Access Service Request (ASR) for a Multiplexed DS1/DS3. The TC/CLEC must:

-Include the Special Access Circuit(s) to be converted in the Remarks Section of the LSR

-Include RPON of Multiplexed DS1/DS3 in the Remarks Section

-Include Project Name – AC2U

-In the **SWBT Region ONLY**, populate the CHC and DFDT on the LSR

ICC Docket No. 02-0365
Ameritech Illinois Ex. 2.0
Schedule DFN-2

The above overview is just a brief description of the revisions made to the original ordering process that was posted on CLEC Online. LSR and ASR examples will be posted for further clarification as well.

Because of the additional manual work required under the new process, SBC will implement a standard FCC tariff Special Access service order charge (rate will vary per region) that will be added to the non-recurring and recurring charges for the UNE Loop and UDT combination.

Please forward questions to your SBC Account Management representative.

Revised: 02-01-01

Special Access to UNEs Forms

Certification Pursuant to Federal Communications Commission's
Supplemental Order Dated November 24, 1999 In CC Docket No. 96-98

- [HTML Version](#)
- [Word 6.0 Version](#)

Reconfiguration Options

- [HTML Version](#)
- [Word 6.0 Version](#)

Certification Spreadsheet

- [HTML Version](#)
- [Excel 5.0 / 95 Version](#)

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Reconfiguring Special Access Service Arrangements to Combinations of Unbundled Network Elements (UNEs)

This document is intended to describe the self-certification criteria required in order for Telecommunications Carriers to reconfigure or convert existing special access service arrangements to combinations of UNEs. The criteria in Section I below is based upon the definitions promulgated by the Federal Communications Commission (FCC) in *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Supplemental Order Clarification, FCC 00-183 (released June 2, 2000).

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Option I

- The telecommunications carrier is the exclusive provider of an end user's local exchange service
- Collocation is required for this option
- This option does not allow loop-transport combinations to be connected to incumbent LEC's tariffed services

Option II

- The telecommunications carrier provides local exchange access service to the end user customer and handles at least one third (33 %) of the end-user-customer's local traffic measured as a percent of total end user customer lines and
- At least 50% of the activated channels on the loop portion of the loop and transport combination have at least 5% local voice traffic individually and
- The entire loop facility has at least 10% local voice traffic and
- If a loop-transport combination includes multiplexing (e.g., DS1 multiplexed to DS3 level), each of the individual DS1 circuits meets the above criteria for this option.
- Collocation is required for this option
- This option does not allow loop-transport combinations to be connected to incumbent LEC's tariffed services

Option III

- At least 50% of the traffic on at least 50% of the channels on the loop portion of the facility is local voice traffic and
- The entire loop facility has at least 33% local voice traffic and
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B. Loops Terminating in a Collocation Space

Loops that terminate in a collocation space may be purchased as UNEs.

C. Ongoing Qualification

A Telecommunications Carrier/ CLEC (TC/CLEC) that has reconfigured a special access circuit to UNEs will take reasonable measures, on an ongoing basis to ensure that all certifications remain valid.

II. Ordering Requirements

SBC will accept requests to reconfigure Special Access service arrangements to combinations of UNEs using the existing ordering processes for Unbundled Loops and Unbundled Local Transport with the following modifications:

- Telecommunications Carrier (TC)/Competitive Local Exchange Carrier (CLEC) sends to Account Manager a completed Certification Letter or Certification Spreadsheet, or a letter that contains their circuit list(s) and designates their conversion option.
- All reconfigurations of Special Access arrangements to UNEs will be handled as projects. Critical dates and due dates for all projects are to be negotiated. The due dates for all circuits may be the same, but the critical dates will be staggered, based on negotiations made by SBC.
- The customer is required to send an ASR (when converting multiplexed circuits) or an LSR (for the conversion of all other circuits) to the LSC. The customer will include the Special Access Circuit(s) to be converted in the Remarks portion of the LSR or ASR. The ASC will use the customer's certification list or spreadsheet to issue the disconnect order that stops the billing of the Special Access circuit. The customer is not required to send an ASR to disconnect the Special Access circuit.

- TC/CLEC issues LSR to Local Service Center (LSC) to establish EELs (Loop and Transport Combinations) or an ASR for a Multiplexed DS1/DS3:
 - Including the special access circuit to be discontinued in the Remarks
 - Including RPON of any other related orders in Remarks section
 - Including Project Name – AC2U
 - **SWBT Region Only** – the CHC and DFDT is populated on the LSR

III. Billing

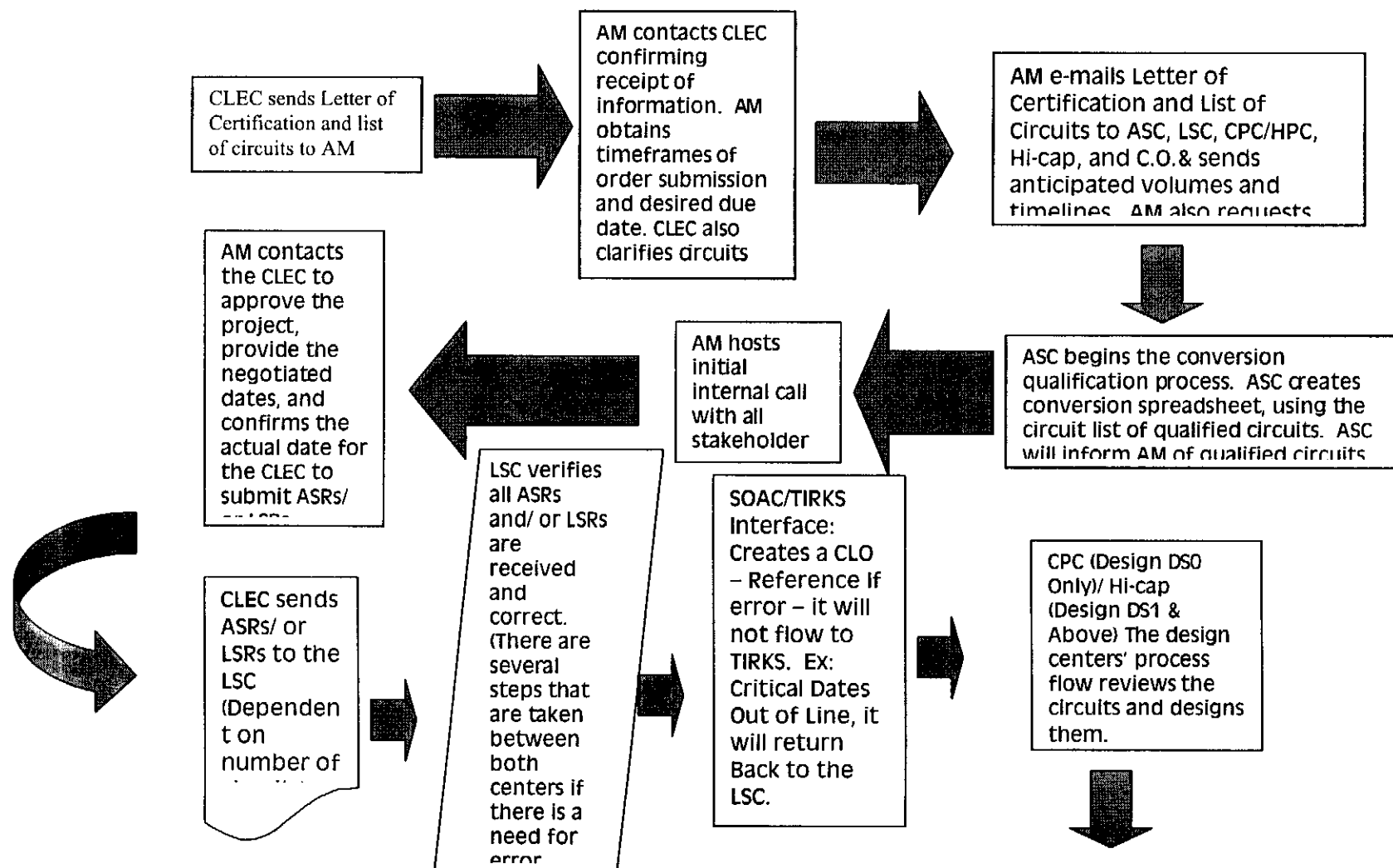
- Termination liability, if applicable, will be billed at the time of reconfiguration of the Special Access circuit.
- All UNE loop and dedicated transport non-recurring and recurring charges in the configuration will apply unless a state commission has ruled otherwise.
- Because of the additional manual work required under the new process, SBC will implement a standard FCC tariff Special Access service order charge (rate will vary per region) that will be added to the non-recurring and recurring charges for the UNE loop and dedicated transport combination.

IV. Switched Access and Local Interconnection Trunking

When Switched Access trunks ride channelized Special Access circuits, the Switched trunks must be groomed off of the Special Access circuit before it can be reconfigured.

If Switched Access trunks ride a Switched Access higher speed circuit, the trunks must be groomed off, and the circuit converted to Special Access before it can be reconfigured.

Special Access to UNE Conversion Process Flow – Chart Illustration (Ameritech)



Special Access to UNE Conversion Process Flow – Chart Illustration (Ameritech) (cont.)

